UNITED NATIONS **S**

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22 December 1995

ORIGINAL: ENGLISH

LETTER DATED 22 DECEMBER 1995 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the letter of His Excellency Dr. Radoje Kontić, Prime Minister of the Federal Republic of Yugoslavia, addressed to you.

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

95-41542 (E) 221295 281295

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Annex

Letter dated 22 December 1995 from the Prime Minister of Yugoslavia addressed to the President of the Security Council

As you know, there is a territorial dispute between the Federal Republic of Yugoslavia, i.e. the Republic of Montenegro, and the Republic of Croatia located in the Prevlaka peninsula in Boka Kotorska Bay. The existence of the dispute was noted by the two sides in Dubrovnik on 25 April 1995.

The legal status of the disputed part of the territory which encompasses Cape Oštri and a part of the Prevlaka hinterland was regulated by the joint declarations of the President of the Federal Republic of Yugoslavia and the President of the Republic of Croatia of 30 September and 20 October 1992, as well as in Security Council resolutions 779 (1992) of 6 October 1992 and 981 (1995) of 31 March 1995.

The joint declaration of the President of the Federal Republic of Yugoslavia and the President of the Republic of Croatia of 30 September 1992 provisionally resolved the outstanding and disputed questions in the border belt between the Federal Republic of Yugoslavia (Republic of Montenegro) and the Republic of Croatia. The agreement established the legal status of the territory at Prevlaka which was demilitarized with its hinterland, while the two sides agreed to solve the problem of the general security of Boka Kotorska and Dubrovnik through further negotiations.

The said agreement was confirmed in Security Council resolution 779 (1992) of 6 October 1992, by which the United Nations assumed the responsibility for the control of the agreed arrangements and respect for the security regime of the United Nations pending a peaceful solution of the disputed question by the two sides.

By adopting the said resolution, the Security Council, in accordance with Article 33 of the Charter of the United Nations, called upon the sides to solve the dispute through negotiations.

During the peace negotiations in Dayton in November 1995, using the instruments of general peace arrangements, the delegation of the Federal Republic of Yugoslavia did everything within its power to arrive in direct contact with the delegation of the Republic of Croatia and in the presence of the representatives of the United States of America, at a negotiated solution of the dispute. The guarantees in connection with a tripartite exchange of territories among the Federal Republic of Yugoslavia, the Republic of Croatia and Bosnia and Herzegovina and the solution of the dispute about Prevlaka in favour of the Federal Republic of Yugoslavia, i.e. the Republic of Montenegro, made at the time by the Republic of Croatia, are known to all participants in the Dayton Proximity Talks. However, after the Dayton Agreement, by a series of public statements of the most responsible representatives of the Republic of Croatia, the Croatian side put in question the agreed arrangements.

The Federal Republic of Yugoslavia had exhausted all possibilities and instruments to date to solve the dispute with the Republic of Croatia through direct diplomatic negotiations, as directed by the United Nations Security Council in its relevant resolutions. In this context, mention should be made of the negotiations initiated by the Assembly of the Republic of Montenegro on 8 October 1991 which contain a proposal on a negotiated delineation with the Republic of Croatia on land and sea in the region of Prevlaka; the negotiations at the highest level in The Hague and Brussels during 1991 and 1992; the meetings and talks of the Interior Ministers of the Republic of Montenegro and the Republic of Croatia of 20 October 1992 and 28 January 1993; the direct talks of the two interested sides within the Joint Inter-State Committee of the Federal Republic of Yugoslavia and the Republic of Croatia in the presence of the Special Representative of the Secretary-General of the United Nations, of 25 April 1995; the shuttle diplomacy of the Special Representative; and, finally, of the continuation of negotiations in Dayton in November 1995, at the London Conference on 9 December 1995 and at the Paris Conference on 14 December 1995, which failed to bring the expected results.

Invoking United Nations Security Council resolutions related to Prevlaka and the reports of the Secretary-General of the United Nations of 17 September 1994 and 22 March 1995 and reiterating once again its firm commitment to a peaceful solution of the dispute in accordance with the Charter of the United Nations, the Federal Republic of Yugoslavia wishes to inform the Security Council once again that the territorial dispute between the Republic of Croatia and the Federal Republic of Yugoslavia located in the Prevlaka peninsula has not been solved and requests the Security Council to call upon the Republic of Croatia to find a peaceful solution through diplomatic negotiations.

Pending a peaceful and mutually acceptable solution of this territorial dispute and because of the possibility of interpreting Security Council resolutions 779 (1992) and 981 (1995) related to the mandate of the peace force in different ways, the Federal Republic of Yugoslavia requests the Security Council to adopt a decision, prior to the expiry of the United Nations mandate in the former Yugoslavia, that the United Nations monitoring mission in the disputed area continue its activities until a peaceful solution has been achieved.

(Signed) Radoje KOMTIĆ
Federal Prime Minister

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Security Council

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S/1995/1060
27 December 1995

ORIGINAL: ENGLISH

LETTER DATED 27 DECEMBER 1995 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

With respect to the report of the Secretary-General on the situation of human rights in Croatia pursuant to Security Council resolution 1019 (1995) (S/1995/1051), I have the honour, upon instructions from my Government, to state the following.

Croatia finds the report incorrect to the point of bias, unnecessary and extremely unproductive. The report does not contain relevant information requested by paragraph 12 of Security Council resolution 1019 (1995), but merely recycles the material previously submitted in various other reports (e.g. A/50/648, S/1995/730, S/1995/835, S/1995/933, S/1995/987), which has already been the subject of previous action by the Security Council and the General Assembly. Through this report, the Secretary-General is acting outside the mandate given to him by the Council by resolutions 1009 (1995) and 1019 (1995). An analysis of some specific parts of the report is enclosed herewith.

The report (S/1995/1051), and the hastily adopted presidential statement (S/PRST/1995/63), have created the wrongful impression of serious problems and tensions inside Croatia. Consequently, this could affect the ongoing peace process, including the implementation of the Basic Agreement aimed at the peaceful reintegration of the former Sector East with the rest of the Republic of Croatia. After reading the report, some Member States could reach an entirely wrong perception of the actual situation in Croatia, thus becoming reluctant to contribute troops for the forthcoming implementation of the Basic Agreement. My Government is obliged to draw your attention to the fact that any serious delay in the deployment of the new peace-keeping force in Croatia would put into jeopardy the stability of the wider region and seriously undermine the ongoing peace process not only in Croatia but also in neighbouring Bosnia and Herzegovina.

Most of the requests placed before the Government of Croatia by Security Council resolutions 1009 (1995) and 1019 (1995) have been fulfilled; the implementation of the remainder is linked with the circumstances prevailing in

the wider region and the state of the peace process in general. My Government is committed to their full implementation. For your reference, enclosed please find the analysis of the requirements of the respective resolutions.

One of the requests in particular - the expiration of the deadline for Serbs that have abandoned their property and have left the country to reclaim their ownership - had been heeded today at the session of the Government. Consequently, I have the honour to submit, enclosed herewith, a statement of the Ministry of Foreign Affairs. The Government has suspended the expiration of the said deadline and will propose to the Parliament (Sabor) of Croatia urgently to amend the law on the temporary takeover and administration of specific property as to extend the said deadline sine die.

Croatia remains committed to the peaceful reintegration of its remaining occupied territories. My Government works determinedly on confidence-building measures, and is pursuing the path of normalization of relations with the "Federal Republic of Yugoslavia (Serbia and Montenegro)". Croatia would like to see rapid and determined Council action with regard to the implementation of the Basic Agreement. Implementation Fora (IFOR) action in Bosnia and Herzegovina is progressing successfully and without delay. It would be harmful to allow the action in Croatia to fall so much behind in terms of time and effectiveness.

I would kindly request your assistance in distributing this letter and its annexes as a document of the Security Council.

(Signed) Mario NOBILO
Permanent Representative

Annex I

Analysis of some issues from the Secretary-General's report on the situation of human rights in Croatia pursuant to Security Council resolution 1019 (1995)

1. Title: The title is erroneous. Resolution 1019 (1995) does not mandate the Secretary-General to report on the situation of human rights in Croatia, only to "continue to inform the Council on a regular basis of measures taken by the Government of ... Croatia to implement resolution 1009 (1995) and [1019 (1995)]".

2. Paragraph 2: The Secretary-General refers to an Assembly document (A/50/648), which is not relevant for considerations of the Security Council.

3. Paragraph 2, in fine: "Reports of such violations continue to be received up to the present time". The report does not give any credible data on this fact, nor cite any specific cases, only "estimates", "indications", "should be noted", "it appears", "numerous cases".

4. Paragraph 4: "As accounts of human rights abuses persisted, Croatian authorities conceded that violations had occurred, but blamed 'rogue elements' that the military and police were allegedly unable to control". See A/50/648, paragraph 34 - identical.

5. Paragraph 5: "The High Commissioner for Human Rights conveyed his concern about the reported human rights violations to the President of the Republic of Croatia in letters dated ...". See A/50/648, paragraph 28 - identical.

6. Paragraph 9: "bodies of more than 150 people ... suspicious deaths to more than 230 ...". The access of monitors has been granted. Did they see 150 or 160 or 1,000 bodies? They should have given a precise number.

7. Paragraph 14: "It is not possible to provide the exact number of houses destroyed by fire in former Sectors North and South, although the estimated total is in excess of 5,000". See S/1995/933, paragraph 27 - identical; and A/50/648, paragraph 33 - strikingly similar.

8. Paragraph 16: "In innumerable cases observed first hand by United Nations and other international personnel, Croatian soldiers and civilian police were in close proximity to burning buildings and did not appear to be attempting to extinguish the fires and, in some cases, even appeared to have set them". See S/1995/933, paragraph 27 - identical; and S/1995/730, paragraph 17 - strikingly similar.

9. Paragraphs 17-20: Repetitive, extensively covered in S/1995/933, paragraphs 26-33.

10. Paragraph 25: "On 25 August, a human rights action team found virtually the entire village of Grubori in Sector South ablaze". See S/1995/933, annex, paragraph 33 (1) - follow-up on long-past events.

11. Paragraph 28: "As many as 200,000 people, more than 90 per cent of the Serb population, are estimated to have fled former Sectors North and South following the recent Croatian offensive". See A/50/648, paragraph 13; and S/1995/730, paragraph 11. Numbers are imprecise; after four years of presence in the occupied territories the United Nations is not in a position to confirm anything, only "estimate".

12. Paragraph 30: "On 13 November, it was reported that two elderly Serbs in former Sector North had died after being denied adequate medical treatment by local medical facilities". Please note that this is the only date in the report that reports on an event that is within the time-limited mandate of the Secretary-General to report after the adoption of resolution 1019 (1995) (9 November); all the other events mentioned in the report deal with events of August or early September.

13. Paragraph 35: "The recent law on 'the temporary takeover and administration of specific property'". See A/50/648, paragraphs 36 and 37 - identical; and S/1995/933, paragraph 38.

14. Section V, paragraphs 38 and 39: "Constitutional rights of the remaining Serb population" - the 9,000 Serbs enumerated are not the "remaining Serb population", the Serbs in Croatia who live outside this region enjoy the same rights as they had before; special status has been suspended (not terminated) owing to the fact that Serbs do not constitute a distinct majority in one part of Croatia; Serbs in Croatia have participated in recent elections, and have elected their special minority members of Parliament guaranteed by the Constitution.

Section X. Observations: Of seven points, all are negative, notwithstanding the fact that the report itself mentions certain positive actions by the Croatian Government. The observation (para. 54) is made that "human rights violations in former Sectors North and South continue to be reported to the present day, albeit on a reduced scale", but the report does not provide any credible evidence that any of the alleged violations are still going on.

Three of the observations (paras. 55, 58 and 59) deal with issues outside the mandate given by Security Council resolutions 1009 (1995) and 1019 (1995).

The report basically repeats allegations made in previous reports, sometimes in copycat manner. All of them are reports on human rights issues, which do not fall under the jurisdiction of the Security Council as mandated by the Charter. It is clear that the Croatian Government is acting bona fides in implementing resolutions 1009 (1995) and 1019 (1995) on which the Secretary-General was mandated to report by the Council.

The Croatian Government is the only Government in the region that has allowed full and unimpeded access by the international community for investigation of all alleged abuses. Without the full cooperation of Croatia, none of these would be possible.

Further, there is a clear lack of accuracy of various claims made in the report.

Annex II

Requirements of Security Council resolutions 1009 (1995) and 1019 (1995) with regard to the Government of Croatia

Security Council resolution 1009 (1995) (10 August)

Paragraph 1: "cease all military actions"

Yes

Paragraph 2 (a): "respects fully the rights of the local Serb population, including their right to remain [yes], leave [yes], or return in safety" [yes, but the proper conditions do not yet exist]

Paragraph 2 (b): "allow access to this population by international humanitarian organizations"

Yes

Paragraph 2 (c): "create conditions conducive to the return of those persons who have left their homes"

Under way

Paragraph 3: "responsibility [of Croatia] to allow access for representatives of ICRC to members of the local Serb forces who are detained by the Croatian government forces"

Yes

Paragraph 6: "fully respect the status of United Nations personnel, refrain from any attacks against them, bring to justice those responsible for any such attacks, and ensure the safety and freedom of movement of United Nations personnel at all times"

Yes

Paragraph 7: "exercise maximum restraint in and around Sector East"

Yes

Paragraph 9: "to resume talks under the auspices of the Co-Chairman"

Yes

Security Council resolution 1019 (1995) (9 November)

Paragraph 1: "comply fully with ... obligations [deriving from] international humanitarian law and ... human rights"

Under way

Paragraph 6: "take urgent measures to put an end to violations of international humanitarian law and of human rights"

Yes

Paragraph 6: "investigate all reports of such violations so that those responsible in respect of such acts be judged and punished"

Under way

Paragraph 7: "respect fully the rights of the local Serb population including their right to remain [yes] or return in safety [not yet]"

Paragraph 7: "lift any time-limits placed on the return of refugees to Croatia to reclaim their property"

Yes

Paragraph 8: "comply fully and in good faith with the obligations contained in paragraph 4 of resolution 827 (1993)"

Yes, but the proper conditions do not yet exist

Paragraph 9: "refrain from any action intended to destroy, alter, conceal or damage any evidence of violations of international humanitarian law and ... preserve such evidence"

Yes

Paragraph 10: "fully ensure the safety [of United Nations peace forces] and cooperate fully with them"

Yes

Annex III

Statement issued by the Ministry of Foreign Affairs of Croatia on 27 December 1995

In response to the requests by departed Croatian citizens of Serbian nationality to be allowed to return and take over their property in the Republic of Croatia, the Croatian Government will propose to the Parliament, at its session due to commence on 15 January 1996, to apply the urgent procedure in amending the law on the temporary takeover and administration of specific property. The proposed changes will include the deletion of the provisions setting the deadline for their return to the Republic of Croatia and taking over the property for direct use.

The rest of the issues concerning the abandoned property of the departed Croatian citizens will be settled through a special agreement between the Republic of Croatia and the Federal Republic of Yugoslavia within the overall normalization of Croato-Serbian relations or through a special law.

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LETTER DATED 26 DECEMBER 1995 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to inform you that at 1412 hours on 14 December 1995, a formation of United States military aircraft broke the sound barrier above the town of Samawah, Muthanna Governorate, in the south of Iraq. This formation repeated its overflights of residential quarters on several days, breaking the sound barrier and smashing the glass in the windows of citizens' homes and official agencies in the Governorate.

At 0910 hours on 18 December 1995, another formation of United States military aircraft broke the sound barrier above the town of Umm Qasr, then penetrated deep into the Iraqi territory, in the direction of Khawr al-Zubayr port. This caused a great deal of damage.

These unjustified hostile acts over Iraqi residential quarters undertaken by military aircraft belonging to the United States of America demonstrate the determination of the United States of America to maintain the level of tension and instability in the region.

I request you to intervene, as your responsibilities dictate and in accordance with the Charter of the United Nations, to prevent the recurrence of such unjustified acts against civilian targets, in order that stability, peace and security may prevail in the region.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

95-41771 (E) 281295 281295 291295